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FOUR LAWS* IN THIRTEEN MONTHS: PERFECTING A SECURITY INTEREST IN OKLAHOMA VEHICLES

I. INTRODUCTION

The procedure for perfecting a security interest¹ in an Oklahoma vehicle has recently been modernized. Until July 1, 1979, perfection of a security interest in a vehicle² was primarily governed by Article 9 of Oklahoma's Uniform Commercial Code (U.C.C.).³ The U.C.C. perfec-

* On July 5, 1979, the Oklahoma legislature approved another amendment to the perfection statute discussed in this comment. Act of July 5, 1979, ch. 292, 1979 Okla. Sess. Laws 886, 895 (hereinafter referred to as 1979 Law II). This latest amendment presumably took effect July 5, 1979, as the word "emergency" followed the approval date. *See* text accompanying note 80 *infra*. The 1979 Law was in effect only from July 1 to July 4, 1979, at which time the 1979 Law II amendments took effect. As a result, there have been five laws within thirteen months governing the perfection of security interests in Oklahoma vehicles.

Although the 1979 Law II does not alter the time and method of perfection under the earlier law, it does make several notable changes. The term "vehicle" has been redefined to include only vehicles for which there are certificates of title and to exclude certain specialized vehicles such as those used in highway construction. 1979 Law II, § 23.2b(A)(1). Subsections (D) and (E) of the 1979 Law are consolidated by the 1979 Law II in its subsection (D). Under this new subsection (D), a secured party whose interest was perfected before the effective date of the 1979 Law may continue his perfection as before, or may perfect under the new certificate perfection of the 1979 Law. 1979 Law II, § 23.2b(D). The new subsection (D) also provides that the debtor or other holder of the certificate has a duty to assist the secured party in perfecting. *Id.* This last provision should alleviate some of the burdens placed on the secured party by the 1979 Law. *See* note 96 *infra*.

1. A perfected security interest is one which has the maximum protection available against third parties who claim interests in the vehicle. *Casterline v. Gen. Motors Acceptance Corp.*, 195 Pa. Super. Ct. 344, —, 171 A.2d 813, 818 (1961). The Uniform Commercial Code does not define the term perfection.

2. The term vehicle is defined in title 47, section 23.1 of the Oklahoma Statutes as "[e]very device, in, upon, or by which any person or property is or may be transported or drawn, except devices moved by human or animal power, when not used upon stationary rails or tracks." OKLA. STAT. tit. 47, § 23.1 (1971). Vehicles include house trailers, mobile homes, motor vehicles, semi-trailers, pole trailers, trailers, and travel trailers. Motor vehicles include ambulance service vehicles, automobiles, minibikes, motor busses, motorcycles, recreational vehicles, taxicabs, trucks, and truck-tractors. OKLA. STAT. tit. 47, § 22.1 (Supp. 1978). The new certificate law governs the perfection of security interests created in any of the above vehicles or motor vehicles. OKLA. STAT. tit. 12A, § 9-302(3) & (4) (Supp. 1978); Act of May 17, 1979, ch. 181, § 6, 1979 Okla. Sess. Laws 460 (to be codified at OKLA. STAT. tit. 47, § 23.2b) [hereinafter cited as 1979 Law].

3. All citations to Uniform Commercial Code sections refer to OKLA. STAT. tit. 12A, §§ 1-101 to 10-104 (1971 & Supp. 1978). All citations to the Uniform Commercial Code comments and the Oklahoma Code comments refer to OKLA. STAT. ANN. tit. 12A, §§ 1-101 to 10-104 (West 1963). Oklahoma enacted the 1962 version of the U.C.C., with some variations, to be effective at midnight December 31, 1962. OKLA. STAT. tit. 12A, § 10-101 (1971).

tion provisions required the filing of a financing statement with the county clerk in the county of the debtor's residence.⁴ This method of perfection, however, is followed by only a distinct minority of jurisdictions. Most states have revitalized their perfection procedures to better meet the needs of modern commercial transactions.⁵ Perfection in these states is not governed by the U.C.C. provisions but rather by state certificate laws.⁶ To perfect a security interest in a vehicle, these states typically require notation of the security interest on the vehicle's certificate of title.⁷ Alternatively, they may require a combination of notation and delivery of specific forms to a designated state official.⁸

A 1977 amendment⁹ to both the Oklahoma Motor Vehicle Title

4. U.C.C. § 9-401(1)(a). Although there are no reported Oklahoma decisions on this procedure, see *General Motors Acceptance Corp. v. Long-Lewis Hardware Co.* 54 Ala. App. 188, ___, 306 So. 2d 277, 279 (Civ. App. 1974). For a detailed discussion of the pertinent Oklahoma statutes dealing with perfection prior to the 1979 change, see notes 29-34 *infra* and accompanying text. It should be noted that this comment is limited to the case where the vehicle is a consumer good as defined in U.C.C. § 9-109(1) and the debtor is a resident of Oklahoma.

5. See *In re McGovern*, 6 U.C.C. REP. SERV. 234, 237 (D. Conn. 1969). See generally 1 G. GILMORE, *SECURITY INTERESTS IN PERSONAL PROPERTY* § 20.1-8 (1965).

6. A certificate of title is "any document issued under state authority, on which notation of security interests is either required . . . or permitted . . ." 1 G. GILMORE, *supra* note 5, § 20.8, at 576. Hereinafter certificate of title will be referred to as certificate.

7. U.C.C. § 9-302(3)(b) specifically refers secured parties to state certificate of title laws. For the text of this section see note 92 *infra*. As of 1970, eighteen states had certificate laws which required delivery of specified forms to an official and actual notation of the security interest on the certificate as the exclusive method of perfection. Ward, *Interstate Perfection of the Motor Vehicle Security Interest: A Bottleneck in Section 9-103*, 34 ALB. L. REV. 251, 258 (1970). Also as of 1970, an additional seventeen states had adopted certificate laws which merely provided for notation of the security interest on the certificate. According to Professor Ward, this latter group of states makes delivery of the required documents to the proper official the sole prerequisite for perfection. *Id.* at 259. The 1979 amendment to Oklahoma's certificate law adopts the latter approach. See notes 88-111 *infra* and accompanying text. Professor Gilmore suggests that the trend is to abolish filing in favor of notation as the method of perfecting a security interest in a vehicle. See 1 G. GILMORE, *supra* note 5, § 20.1, at 553.

Prior to July 1, 1979, Oklahoma's certificate statute, OKLA. STAT. tit. 47, § 23 (1971), was classified as a "non-exclusive" statute. A "non-exclusive" statute requires the notation of some but not all interests or liens on the certificate itself. 1 G. GILMORE, *supra* note 5, § 20.1, at 553; Ward, *supra*, at 257; Welsh, *Security Interests in Motor Vehicles Under Section 9-302 of the Uniform Commercial Code*, 37 U. CIN. L. REV. 265, 269 (1968). Generally only those interests or liens which are created or are in existence upon a transfer of ownership of the vehicle by the purchaser are noted. OKLA. STAT. tit. 47, § 23.6 (1971). This notation, however, is not connected with the perfection process. Welsh, *supra*, at 269. See note 40 *infra* for a discussion of OKLA. STAT. tit. 47, § 23.6 (1971).

8. Ward, *supra* note 7, at 258.

9. Act of June 14, 1977, ch. 223, 1977 Okla. Sess. Laws 556 (codified at OKLA. STAT. tit. 12A, § 9-302 & tit. 47, § 23.3 (Supp. 1978)) [hereinafter cited as 1977 Law]. The 1977 and 1978 amendments, see note 15 *infra*, to section 23.3 are printed consecutively in the Official Oklahoma 1978 Statutory Supplement. The first printed amendment will be referred to in the text as the 1977 Law; the second amendment will be referred to as the 1978 Law. Citations for the 1977 and 1978 Laws will be from the Official 1978 Oklahoma Statutory Supplement. Citations for the 1979 Law will be from the 1979 Oklahoma Session Laws.

Act¹⁰ and the U.C.C. radically altered the manner of perfecting a vehicle security interest. Although some question exists as to its effective date and duration,¹¹ this law made the issuance of a certificate, on which the security interest was noted, the method of perfection.¹² Under this procedure Oklahoma was an "exclusive" certificate of title state¹³ because perfection of a security interest in a vehicle was no longer governed by the filing provisions of the U.C.C.¹⁴

A 1978 amendment¹⁵ to the Motor Vehicle Title Act and to the U.C.C. again altered the perfection procedure. Only two sections of this law ever took effect.¹⁶ The perfection provisions of the 1978 Law never became operative due to another amendment which was passed in 1979.¹⁷ The 1979 act became effective July 1, 1979, and repealed the perfection procedures under both the 1977 and 1978 Laws.¹⁸

The 1979 act has simplified the perfection procedure by changing both the time and method of perfection as provided by the U.C.C. and the 1977 Law. On its face, the 1979 act makes the delivery of certain forms to the Oklahoma Tax Commission or to one of its motor license agents the sole prerequisite to perfection.¹⁹ Yet when read in conjunction with the pertinent U.C.C. provisions, it is unclear whether notation of the security interest on the certificate is also part of the perfection procedure of the 1979 Law.²⁰ If delivery is viewed as the sole requirement for perfection, the statute is consistent with the Code's "race of diligence" approach at the expense of the notice function of perfection.²¹ Conversely, if notation of the security interest on the certificate

10. OKLA. STAT. tit. 47, §§ 23-23.13 (1971 & Supp. 1978).

11. See notes 48-87 *infra* and accompanying text.

12. 1977 Law, *supra* note 9, § 23.3(B), at 1040.

13. Under an "exclusive" certificate law, all security interests must be noted on the certificate. Compliance with the certificate act is the exclusive method of perfection. Filing under the U.C.C. is not required and is ineffective to perfect a security interest if made. 1 G. GILMORE, *supra* note 5, § 20.1, at 553; Ward, *supra* note 7, at 257; Welsh, *supra* note 7, at 269.

14. U.C.C. § 9-302(3)(b) & (4).

15. Act of April 4, 1978, ch. 135, 1978 Okla. Sess. Laws 243 (codified at OKLA. STAT. tit. 12A, § 9-302 & tit. 47, § 23.3 (Supp. 1978) [hereinafter cited as 1978 Law].

16. See notes 18 & 48-84 *infra* and accompanying text.

17. 1979 Law, *supra* note 2.

18. *Id.* § 8. It is important to note that the 1979 Law did not repeal the 1978 Law's amendment to U.C.C. § 9-302. As amended by the 1978 Law, § 9-302 became effective July 1, 1979. 1978 Law, *supra* note 15, § 9-302, at 422. See note 92 *infra* for the text of this section.

19. 1979 Law, *supra* note 2, § 6(A)(1). Hereinafter "Oklahoma Tax Commission" will be referred to as the "Commission," and a "motor license agent" will be referred to as an "agent."

20. U.C.C. § 9-302(4). See notes 98-103 *infra* and accompanying text.

21. In U.C.C. § 9-312(5)(a) - (b), the drafters adopted the common law doctrine known as the "race of diligence" approach. OKLA. STAT. ANN. tit. 12A, § 9-312, U.C.C. comment 4 (West 1963). Under this approach, if conflicting secured parties perfect by filing, the first to file gains

is a prerequisite to perfection, the statute fulfills the notice function of the Code at the expense of a diligent secured party who fails to procure notation due to the Commission's error.²² The purpose of this comment is to delineate the changes made by the 1979 Law and to provide an interpretation of the 1979 act which balances the diligence and notice policies of the Code. In addition, it will highlight the problems which may result from having four changes in Oklahoma's vehicle perfection law within thirteen months.²³

II. OKLAHOMA'S PERFECTION PROCEDURE

A secured party perfects a security interest in a vehicle to gain priority over prior unperfected secured parties, subsequent secured parties, and subsequent lien creditors, all of whom may claim interests in the same vehicle.²⁴ Although the unperfected secured party is able to enforce a valid security agreement²⁵ against the debtor as well as

priority without regard to his or her knowledge of prior unperfected security interests in the collateral. If, however, one or more conflicting secured parties do not perfect by filing, then priority is determined by order of perfection. *See generally* J. WHITE & R. SUMMERS, HANDBOOK OF THE LAW UNDER THE UNIFORM COMMERCIAL CODE, § 25-4, at 906 (1972).

22. *See* notes 101-04 *infra* and accompanying text.

23. This comment will be concerned primarily with the perfection procedure to be followed by either the seller or the financing agent who has taken a purchase money security interest in a motor vehicle. U.C.C. § 9-107. There will be only limited reference to security interests taken in inventory held by a dealer for sale or lease. *See* note 88 *infra*. For commentary on the perfection procedures in multistate transactions, *see generally* 1 G. GILMORE, *supra* note 5, §§ 22.1-9; J. WHITE & R. SUMMERS, *supra* note 21, § 23-21, at 855; Meyers, *Multi-State Motor Vehicle Transactions Under the UCC: An Update*, 30 OKLA. L. REV. 834 (1977); Ward, *supra* note 7; Comment, *Interstate Movement of Motor Vehicles Subject to Security Interests: A Case for Repealing UCC § 9-103(4)*, 54 CORNELL L. REV. 610 (1969); Comment, *Interstate Movement of Motor Vehicles: Certificate of Title Acts and the Uniform Commercial Code*, 9 CREIGHTON L. REV. 373 (1975); Comment, *Resolving Conflicts Arising from the Interstate Movement of Motor Vehicles: The Original UCC § 9-103 and the Successors*, 35 OHIO L.J. 990 (1974); Comment, *Certificates of Title and 9-103: Some Problems Solved, Others Left Unresolved*, 46 TEMP. L.J. 90 (1972).

The following Code terms and definitions will be used throughout the comment: "Debtor" means the person who owes payment or other performance of the obligation secured. U.C.C. § 9-105(1)(d).

"Secured party" means a lender, seller, or other person in whose favor there is a security interest. U.C.C. § 9-105(1)(i).

"Security agreement" means an agreement which creates or provides for a security interest. U.C.C. § 9-105(1)(h).

"Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. U.C.C. § 1-201(37).

"Collateral" means the property subject to a security interest. U.C.C. § 9-105(1)(c).

24. *Casterline v. General Motors Acceptance Corp.*, 195 Pa. Super. Ct. 344, ___, 171 A.2d 813, 816 (1961); J. WHITE & R. SUMMERS, *supra* note 21, § 23-5.

25. To create an enforceable security agreement, the parties must complete four steps. *Peterson v. Ziegler*, 39 Ill. App. 3d 379, ___, 350 N.E.2d 356, 360 (1976). First, they must enter an agreement which creates or provides for a security interest. U.C.C. § 9-105(1)(h). Second, they must reduce the agreement to a writing which describes the collateral, includes language creating

against general creditors and some subsequent purchasers of the vehicle,²⁶ the unperfected secured party is in a subordinate position to most lien creditors and to perfected secured parties who hold interests in the vehicle.²⁷

A. *The Law Before July 1, 1979*

Except for the period between July 1 and July 28, 1978,²⁸ the procedure for perfecting a security interest in a vehicle was governed wholly by the U.C.C. until July 1, 1979. The secured party perfected a security interest by filing²⁹ a financing statement³⁰ with the county clerk

a security interest in that collateral, and is signed by the debtor. U.C.C. § 9-203(1)(b); *Mitchell v. Shepherd Mall State Bank*, 458 F.2d 700, 703 (10th Cir. 1972). The agreement need not be signed by the secured party to be enforceable against the debtor. Moreover, a writing is not required if the secured party has possession of the collateral. U.C.C. § 9-203(1)(a). Third, the debtor must have acquired rights in the collateral. Fourth, the secured party must have given value in return for the security interest. There is no requirement that the four steps occur simultaneously. Unless an explicit agreement between the parties postpones the time of attachment, it is only upon the completion of all the steps that the security interest comes into being and attaches. *Morton Booth Co. v. Tiara Furniture, Inc.*, 564 P.2d 210, 213 (Okla. 1977); OKLA. STAT. ANN. tit. 12A, § 9-204, Oklahoma Code comment (West 1963). See generally J. WHITE & R. SUMMERS, *supra* note 21, §§ 23-1 to 23-4. The significance of attachment is evident from the two requirements of U.C.C. § 9-303(1): "a security interest is perfected when it has attached and when all of the applicable steps required for perfection have been taken." U.C.C. § 9-303(1).

26. See U.C.C. §§ 9-201, 9-301, 9-307. If the subsequent purchaser is a buyer in the ordinary course, he or she will take the vehicle free of a security interest created by the debtor-seller even though the interest is perfected and even though the purchaser knows of the interest. U.C.C. § 9-307. See, e.g., *O'Dell v. Kunkel's, Inc.*, 581 P.2d 878, 881 (Okla. 1978). A buyer in the ordinary course is a person who in good faith and without knowledge that the sale violates the security interest of the secured party buys in the ordinary course from a person in the business of selling goods of that kind. U.C.C. § 1-201(9). If the subsequent purchaser is *not* a buyer in the ordinary course, he or she will take the vehicle free of the security interest to the extent of the value given, so long as the vehicle is received without knowledge of the security interest and before it is perfected. U.C.C. § 9-301(1)(c).

27. *Morton Booth Co. v. Tiara Furniture, Inc.*, 564 P.2d 210, 213 (Okla. 1977); U.C.C. § 9-301(1)(a)-(b). Under § 9-301(1)(b), a person must become a lien creditor without knowledge of the security interest and before it is perfected to take priority over an unperfected secured party. *In re McClain*, 447 F.2d 241, 244 (10th Cir. 1971), *cert. denied*, 405 U.S. 918 (1972).

28. See notes 44-87 *infra* and accompanying text.

29. With some exceptions, U.C.C. § 9-302(1) requires filing as the condition precedent to perfection. Section 9-302(3) provides for perfection by notation of the security interest on the certificate in place of filing where a state statute so requires. U.C.C. § 9-403(1) provides that filing is complete upon presentation for filing of the financing statement and tender of the filing fee. Filing a financing statement is the most common method of perfection. J. WHITE & R. SUMMERS, *supra* note 21, § 23-5. It serves as a notice which alerts third parties to the secured party's claim and tells them where to look for more information. *Id.* See *Mitchell v. Shepherd Mall State Bank*, 458 F.2d 700, 704 (10th Cir. 1972); *In re Fowler*, 407 F. Supp. 797, 802 (W.D. Okla. 1975). In fact, subsequent purchasers and creditors are charged with notice of a properly perfected security interest. *National Trailer Convoy Co. v. Mount Vernon Nat'l Bank & Trust Co.*, 420 P.2d 889, 893 (Okla. 1966).

30. U.C.C. § 9-402(1).

in the county of the debtor's residence.³¹ The formal requirements of a financing statement included the signatures of the debtor and the secured party, an address of the secured party from whom information concerning the security interest could be obtained, a mailing address of the debtor, and a description of the collateral.³² Although the financing statement could be filed before the security interest attached,³³ perfection occurred only when attachment and filing were both completed.³⁴

The U.C.C. filing procedure gave inefficient notice to subsequent parties of a security interest in a vehicle even when a financing statement was properly filed. Under this procedure, subsequent parties had the burden of checking with the county clerk's office for prior security interests in the vehicle. In contrast, under a typical certificate law, subsequent parties only need to glance at the certificate to discover prior security interests.³⁵ Moreover, the notice function of perfection was frustrated if the financing statement was misfiled or if the financing statement was not filed or indexed under the debtor's legal name.³⁶ Fi-

31. U.C.C. § 9-401(1)(a). This provision describes the proper filing place to perfect a security interest in consumer goods. A vehicle which is "purchased and used primarily for personal purposes is a [consumer good]." U.C.C. § 9-109(1). *In re Armstrong*, 7 U.C.C. REP. SERV. 781, 783 (W.D. Okla. 1970). The debtor's residence has been interpreted to mean "permanent residence." *Id.* If the debtor's residence changes, U.C.C. § 9-401(3) provides that a proper filing is effective for four months after the debtor changes residence to another county. The filing is ineffective thereafter unless a copy of the financing statement is signed by the secured party and filed in the new county within the four-month period. *Id.* A secured party who is in doubt about the proper classification of the collateral should file in all counties where filing may be required. *In re McClain*, 477 F.2d 241, 244-45 (10th Cir. 1971).

32. U.C.C. § 9-402(1). The information to be provided in a financing statement is comparable to the information to be provided in the application for a certificate of title. *See* note 40 *infra*. Consistent with the notice function of filing, U.C.C. § 9-402(5) provides that the financing statement is effective even though it contains minor errors. *Central Nat'l Bank & Trust Co. v. Community Bank & Trust Co.*, 528 P.2d 710, 712 (Okla. 1974). Moreover, U.C.C. § 9-402(1) permits a copy of the security agreement to be filed instead of a financing statement if it meets the requirements of that section. Although a copy of the security agreement could constitute a financing statement, the converse is not necessarily true. The financing statement usually does not include words which create a security interest—a prerequisite for an enforceable security agreement. *Mitchell v. Shepherd Mall State Bank*, 458 F.2d 700, 704 (10th Cir. 1972). *See* note 25 *supra*. *See generally* J. WHITE & R. SUMMERS, *supra* note 21, §§ 23-3 & 23-16. For commentary concerning the formal requirements of a financing statement, *see generally* Comment, *Commercial Transactions: The Adequacy of the Description of Collateral in UCC Financing Statements and Security Agreements*, 27 OKLA. L. REV. 469 (1974); Comment, *Secured Transactions: Failure of Secured Party to Sign Financing Statement*, 21 OKLA. L. REV. 101 (1968); Comment, *Description of Collateral in Financing Statement: Should It Be Required?*, 4 VAL. U.L. REV. 205 (1969).

33. U.C.C. § 9-402(1).

34. U.C.C. § 9-303(1). For a discussion of what constitutes attachment, *see* note 25 *supra*.

35. *See* notes 7-8 *supra* and accompanying text.

36. An error by the filing officer did not prevent a secured party from achieving perfection unless his or her conduct caused the filing officer's mistake. *In re Fowler*, 407 F. Supp. 799, 803 (W.D. Okla. 1975); OKLA. STAT. ANN. tit. 12A, § 9-403, Oklahoma Code comment 1 (West 1963); OKLA. STAT. ANN. tit. 12A, § 9-407, U.C.C. comment 1 (West 1963).

nally, the filing system allowed a devious debtor to secure more credit than the vehicle deserved as collateral.

Illustrative of this last problem is *Central National Bank & Trust Co. v. Community Bank & Trust Co.*³⁷ In that case, Central National, and Community Bank made loans to the same debtor, James Lee Anderson. Community Bank made the first loan and took a security interest in the debtor's new car. A proper filing was made in the county clerk's office under "Lee Anderson." Community Bank did not, however, examine the manufacturer's certificate of origin³⁸ to confirm that the certificate of title would be issued to Lee Anderson. The debtor applied for and received a certificate of title in the name of James Lee Anderson.³⁹ Six months later, Central National made a loan to the debtor as "James L. Anderson," and took a security interest in the same car. Central National properly filed its security agreement with the county clerk after determining that no prior financing statements or security agreements had been filed on the car against James Lee Anderson, the name shown on the certificate of title. Consistent with the U.C.C. filing procedure, neither security interest was noted on the certificate of title.⁴⁰ The debtor subsequently obtained three additional loans from two other banks and gave security interests in the same car. When the debtor defaulted on the payment of the second loan, Central National sought foreclosure of its security interest in the vehicle.

The Oklahoma Supreme Court affirmed the trial court judgment giving priority to Central National. Although Community Bank had filed its security agreement first in time, the court held that its security interest did not take priority over the security interest of Central National.⁴¹ Community Bank's failure to file under the name shown on

37. 528 P.2d 710 (Okla. 1974).

38. A manufacturer's certificate of origin is a document which is evidence of ownership of the vehicle. It is assigned to the purchaser by the manufacturer, the distributor, or the licensed dealer of the vehicle. OKLA. STAT. tit. 47, § 23.3 (1971). For an example of this document see Appendix.

39. A certificate of title must be obtained from the Commission or its agent before a certificate of registration and a vehicle license plate can be issued. *Id.*

40. Before July 1, 1979, the application procedure varied depending on whether the vehicle had previously been registered in any state. For vehicles previously registered, the application required disclosure of any lien or encumbrance. For vehicles never before registered, the application did not require such disclosure. Although the disclosure requirements varied, the variance was of no importance here because no provision was made for noting the lien or encumbrance on the certificate itself. Only upon the transfer of ownership of the vehicle was the owner required to state on the certificate all liens or encumbrances. *Dissing v. Jones*, 85 Ariz. 139, ___, 333 P.2d 725, 727 (1958); OKLA. STAT. tit. 47, § 23.6 (1971).

41. 528 P.2d at 713. See U.C.C. § 9-312(5)(a) which provides the priority rule for secured parties who perfect their security interests by filing. See also note 21 *supra*.

the certificate prevented it from having a perfected security interest in the car.⁴² Had Community Bank's security interest been noted on the certificate itself, the debtor might have been prevented from obtaining five loans on the security of one car. Such a notation would have alerted subsequent parties to prior security interests. The 1979 amendment to the Motor Vehicle Title Act attempted to remedy the deficiency illustrated by this case as well as other deficiencies of the U.C.C. filing procedure.⁴³

B. The Law from July 1 to July 28, 1978

Before detailing the substance of the 1979 amendment to the Motor Vehicle Title Act,⁴⁴ it is necessary to discuss the effective date and duration of the 1977 Law⁴⁵ in light of the 1978 act. Although section 8 of the 1979 Law repealed portions of both the 1977 and 1978 Laws,⁴⁶ this repealer provision was ineffective until July 1, 1979.⁴⁷ Consequently, it did not prevent the 1977 act from going into effect for a limited time.

As originally passed the 1977 act was to be effective July 1, 1978.⁴⁸ Prior to that date, however, the legislature passed the 1978 act, section 3 of which changed the effective date of the 1977 Law to June 30, 1979.⁴⁹ Unfortunately, section 4 of the 1978 Law provided that the *entire* 1978 act, including the effective date change for the 1977 Law, was effective beginning July 1, 1979.⁵⁰ No specific provision was made by the legislature for section 3 of the 1978 Law to become effective earlier than the rest of the 1978 Law. Consequently, if the 1978 act was read literally, section 3 would serve no useful function since it would be effective no earlier than the date on which the 1978 Law was to supersede the 1977 Law. Arguably then, the 1977 Law went into effect as originally

42. 528 P.2d at 713.

43. See notes 88-125 *infra* and accompanying text.

44. 1979 Law, *supra* note 2.

45. 1977 Law, *supra* note 9.

46. 1979 Law, *supra* note 2, § 8.

47. *Id.* § 10.

48. 1977 Law, *supra* note 9, § 23.3, at 1041.

49. 1978 Law, *supra* note 15, § 23.3, at 1042.

50. The effective date of the 1978 Law was omitted when codified. It may be found in the Session Laws. Act of April 4, 1978, ch. 135, § 4, 1978 Okla. Sess. Laws 243. When used in a legislative enactment, the word "act" generally refers to the whole statute enacted. Board of Trustees of Firemen's Relief & Pension Fund v. Templeton, 184 Okla. 281, 283, 86 P.2d 1000, 1002 (1939).

planned on July 1, 1978, and remained in effect until July 1, 1979, when the 1979 act became effective.

An alternative interpretation of the 1978 Law was provided by an opinion of the Oklahoma Attorney General.⁵¹ The opinion suggested that the legislative intent behind section 3 of the 1978 act was to delay implementation of the 1977 Law until June 30, 1979.⁵² Any literal interpretation which defeated that intent was clearly erroneous and was to be avoided. According to the Attorney General, an interpretation which best effectuated the legislative intent was one which permitted section 3 of the 1978 Law to go into effect earlier than the rest of the 1978 act. From this premise the Attorney General concluded that section 3 of the 1978 act was effective at the earliest, constitutionally permissible time—July 28, 1978.⁵³ Thus as of July 28, 1978, section 3 of the 1978 Law operated to postpone the effectiveness of the 1977 Law until June 30, 1979.⁵⁴

In resolving statutory ambiguities, Oklahoma courts generally have preferred a statutory construction⁵⁵ that renders every word, phrase, and clause operative.⁵⁶ Such a construction is preferable to

51. OKLA. ATT'Y GEN. OP., No. 78-218 (June 30, 1978) [hereinafter cited as OKLA. ATT'Y GEN. OP.].

52. *Id.* at 2.

53. *Id.* at 4.

54. Contemporaneous administrative construction of a statute by executive officers who are charged with the duty of executing the law is generally accorded great respect, and should ordinarily control the construction given to the statute by the courts. *See* *Crosbie v. Partridge*, 85 Okla. 186, 192, 205 P. 758, 763 (1922). The administrative construction must be acted upon and acquiesced in for a long time by the legislature before it is given any meaningful consideration by the courts. *See* *Watson v. State Election Bd.*, 302 P.2d 134, 138 (Okla. 1956) (quoting 82 C.J.S. *Statutes* § 359 (1955)). Consistent agency interpretation is not legally binding on the courts, but rather is only persuasive evidence of the statute's meaning. *Clinkenbeard v. Frazier*, 582 P.2d 413, 414-15 (Okla. Ct. App. 1978).

55. The basic goal in interpreting a statute is to ascertain and to effectuate the true intent of the legislature. *See, e.g., Tannehill v. Special Indem. Fund*, 538 P.2d 590, 592 (Okla. 1975); *Becknell v. State Indus. Court*, 512 P.2d 1180, 1183 (Okla. 1973). Initially this must be accomplished by analyzing the actual language of the entire statute. *See, e.g., Special Indem. Fund v. Harold*, 398 P.2d 827, 830 (Okla. 1964); *In re Oklahoma Turnpike Auth.*, 365 P.2d 345, 355 (Okla. 1961). If the statutory language is susceptible of only one interpretation, then further judicial construction is impermissible, *Oldham v. Drummond Bd. of Educ. of Indep. School Dist.*, 542 P.2d 1309, 1311 (Okla. 1975), and the language must be followed without additional inquiry. *See* *Estate of Kasishke v. Oklahoma Tax Comm'n*, 541 P.2d 848, 851 (Okla. 1975); *Johnson v. Ward*, 541 P.2d 182, 185 (Okla. 1975). If, however, several meanings can be gleaned from the language, then rules of construction may be used to resolve the doubt and ambiguity. *See, e.g., Price v. Shell Oil Co.*, 199 Okla. 193, 195, 185 P.2d 211, 212 (1947); *Russett School Dist. v. Askew*, 193 Okla. 102, 103, 141 P.2d 575, 577 (1943). *See generally* 2A C. SANDS, SUTHERLAND'S STATUTORY CONSTRUCTION § 45.02 (4th rev. ed. 1973). Because the 1978 act can reasonably be interpreted in several different ways, resort to interpretive rules is essential to ascertain the intent of the legislature.

56. *See, e.g., Street v. Bethany Firemen's Relief & Pension Fund Bd.*, 555 P.2d 1295, 1298

one rendering some words nugatory.⁵⁷ Clearly a literal interpretation of the 1978 act would render section 3 a nullity.⁵⁸ The Attorney General's interpretation, however, which permits section 3 of the 1978 act to become effective earlier than the remainder of the act, gives each section of the 1978 act some meaning.

Further support for the Attorney General's interpretation can be derived from an examination of the title of the 1978 act.⁵⁹ The value of this interpretive aid is enhanced because of the Oklahoma constitutional mandate that the subject of every act must be expressed in its title.⁶⁰ Because Oklahoma courts have construed this constitutional provision to require "that the *purpose* of the act be clearly expressed in its title,"⁶¹ the subject of the act, as defined by the title, should provide useful insight into the legislative intent behind the statute.⁶²

The title of the 1978 act indicates that one of the statute's purposes was to delay "implementation of certain laws."⁶³ Since the 1978 act is amending only the provisions of the 1977 act, it is reasonable to infer that the title manifests a legislative intention to delay implementation of the 1977 act. It is important to note, however, that no language is present in the title which indicates that the provisions of the 1978 act were to go into effect at different times.⁶⁴ Nor is there an indication that the legislature declared an emergency which would allow the whole statute or a specific section of it to go into effect upon the legislature's approval of the act.⁶⁵ Thus, while it is clear that the title supports the Attorney General's conclusion that the legislature intended to post-

(Okla. 1976); *General Motors Corp. v. Cook*, 528 P.2d 1110, 1114 (Okla. 1974); *Hamrick v. George*, 378 P.2d 324, 327 (Okla. 1963).

57. See, e.g., *Street v. Bethany Firemen's Relief & Pension Fund Bd.*, 555 P.2d 1295, 1298 (Okla. 1976); *City of Tulsa v. Goins*, 437 P.2d 257, 259 (Okla. 1967); *Spurrier v. Mallouf*, 184 Okla. 251, 252, 86 P.2d 995, 997 (1939).

58. See OKLA. ATT'Y GEN. OP., *supra* note 51, at 2.

59. When interpreting an ambiguous statute, the title of the act is often a valuable aid in ascertaining the intent of the legislature. See *Irwin v. Irwin*, 433 P.2d 931, 934 (Okla. 1965); *State ex rel. Bd. of Educ. v. Morley*, 168 Okla. 259, 262, 34 P.2d 258, 263 (1934). See generally 2A SANDS, *supra* note 55, § 47.03.

60. OKLA. CONST. art. 5, § 57.

61. *Irwin v. Irwin*, 433 P.2d 931, 934 (Okla. 1965) (emphasis added). See also *Brown v. State*, 266 P.2d 988, 990 (Okla. Crim. App. 1954).

62. See *Oklahoma City v. Prieto*, 482 P.2d 919, 924 (Okla. 1971).

63. 1978 Law, *supra* note 15, at 243 (title of act).

64. This is significant because the purpose of the statute, as derived from the title, must be ascertained without reference to the text of the act. Oklahoma courts have consistently stated that the title of an act "must be construed with reference to the language used in it alone and not in the light of what the body of the act contains." *Oklahoma City v. Prieto*, 482 P.2d 919, 924 (Okla. 1971) (citation omitted). Accord, *Caywood v. Caywood*, 541 P.2d 188, 190 (Okla. 1975).

65. See notes 81-84 *infra* and accompanying text.

pone the effective date of the 1977 act,⁶⁶ it cannot be said, with the same degree of certainty, that the title supports the view that section 3 of the 1978 act went into effect earlier than the rest of the 1978 Law.⁶⁷ Likewise, it is also clear that a literal interpretation of the 1978 act cannot be supported by reference to its title⁶⁸ since section 3, under a literal analysis, would be ineffective as a delaying mechanism. Therefore, while the 1978 act's title offers some insight into the legislature's intent, it does not completely resolve the ambiguity surrounding the effective date of the 1977 act.

Oklahoma courts generally have favored a statutory construction which not only is sensible but also alleviates the evils intended to be avoided by the legislature.⁶⁹ The Attorney General noted that at the time the 1977 act was originally scheduled to go into effect, July 1, 1978, the Oklahoma Tax Commission had insufficient manpower and procedure to effectively administer the new method of perfecting security interests in vehicles.⁷⁰ From this fact the Attorney General suggested that it was the legislature's intention to avoid a situation where lending institutions refused to make loans to consumers due to the non-existence of a complete perfection procedure and the concomitant inability to properly perfect their security interests.⁷¹ Thus the evil sought to be avoided by the legislature, according to the Attorney General, was the economic damage resulting from an incomplete perfection procedure becoming the governing law.⁷²

In interpreting a statute, the circumstances existing at the time it was passed and the evil sought to be prevented by the legislature must be considered.⁷³ It is therefore reasonable to conclude that the Attorney General's interpretation of legislative intent, a desire to delay implementation of the 1977 Law, is infinitely more sensible than a literal interpretation of the 1978 Law which tends to perpetuate the evil by

66. See note 52 *supra* and accompanying text.

67. The interpretation given to the title will not control the plain, unambiguous words of the statute. See *Jones v. Hopkins*, 9 Okla. 133, 154, 59 P. 976, 982 (1899). Arguably, section 4 of the 1978 act clearly indicates that the whole law will go into effect at the same time.

68. See text following note 50 *supra*.

69. *AMF Tuboscope Co. v. Hatchel*, 547 P.2d 374, 379 (Okla. 1976); *Dowell v. Board of Educ.*, 185 Okla. 342, 344, 91 P.2d 771, 774 (1939). See *Otjen v. Mayhue*, 476 P.2d 317, 321-22 (Okla. 1970).

70. OKLA. ATT'Y GEN. OP., *supra* note 51, at 2.

71. *Id.*

72. *Id.*

73. *United States v. Champlin Ref. Co.*, 341 U.S. 290, 297 (1951); *Russett School Dist. v. Askew*, 193 Okla. 102, 104, 141 P.2d 575, 577 (1943); *In re Martin's Estate*, 183 Okla. 177, 179, 80 P.2d 561, 563 (1938).

allowing the 1977 Law to remain effective for a full year. Unfortunately the analysis of the circumstances surrounding the enactment of the 1978 statute, like the analysis of the act's title,⁷⁴ only tends to support the Attorney General's major premise that the legislature intended to delay implementation of the 1977 Law.⁷⁵ It does not fully support the Attorney General's minor premise that the legislature intended section 3 of the 1978 act to have a different effective date than the rest of the 1978 Law.⁷⁶

Notwithstanding the lack of firm support for the Attorney General's minor premise, once the legislature's basic intent has been determined, the law should be liberally construed to effectuate that intent.⁷⁷ Because the legislative intent must prevail over the literal import of the statutory language employed,⁷⁸ Oklahoma courts may modify, alter, or supply words to give the statute the effect which the legislature envisioned.⁷⁹ Thus, despite the lack of express support for allowing the 1978 act's sections to become effective at different times, it is clear that the 1978 act must be interpreted in this manner to properly implement the legislative desire to delay the effectiveness of the 1977 act.

Once it is determined that section 3 of the 1978 Law was effective earlier than the remainder of the 1978 act, the second step is to ascer-

74. See notes 59-68 *supra* and accompanying text.

75. To support this major premise, the Attorney General relies on a June 27, 1978, resolution of the Oklahoma Senate Committee on Revenue and Taxation. This reliance is misplaced for two reasons. First, the resolution was issued after the 1978 amendment had been passed by both houses of the legislature. Thus it cannot be used to prove the intention of the legislature a few months earlier. Second, and more importantly, "[t]he legislature's intention can only be shown by its vote." Davis v. Childers, 181 Okla. 468, 471, 74 P.2d 930, 933 (1938). *Accord*, Haynes v. Caporal, 571 P.2d 430, 434 (Okla. 1977). See Continental Oil Co. v. Oklahoma Tax Comm'n, 494 P.2d 650, 653-54 (Okla. 1972) (Statements of Tax Commission lawyers who participated in drafting the statute are incompetent for purpose of interpreting a statute.).

76. To support the minor premise, the Attorney General relied partially on *Harris v. Dungan*, 199 Okla. 350, 185 P.2d 949 (1947). *Harris*, however, is distinguishable from the present situation. In *Harris* the Oklahoma Supreme Court was faced with a statute which was to be effective immediately upon approval due to a legislative declaration of an emergency. *Id.* at 351, 185 P.2d at 951. One of the provisions of the act dealt with the sale or purchase of real estate. Because of a constitutional provision prohibiting application of an emergency clause to such provisions, OKLA. CONST. art. 5, § 58, the Oklahoma Supreme Court held that part of the statute would go into effect at a date *subsequent* to the time originally stated by the legislature. *Id.* at 352, 185 P.2d at 951. The present situation is different in that a court, following the Attorney General's opinion, would have to put section 3 of the 1978 Law into effect at an *earlier* time than the legislature originally stated.

77. See *In re Captain's Estate*, 191 Okla. 463, 464, 130 P.2d 1002, 1004 (1942).

78. See *Keck v. Oklahoma Tax Comm'n*, 188 Okla. 257, 259, 108 P.2d 162, 164 (1940).

79. See, e.g., *Midwest City v. Harris*, 561 P.2d 1357, 1359 (Okla. 1977); *Russell v. Flanagan*, 544 P.2d 510, 512 (Okla. 1975); *Wray v. Oklahoma Alcoholic Beverage Control Bd.*, 442 P.2d 309, 311 (Okla. 1968); *Curtis v. Registered Dentists*, 193 Okla. 233, 235, 143 P.2d 427, 429 (1943); *Welch v. Simmons*, 190 Okla. 611, 613, 126 P.2d 89, 91 (1942).

tain the exact date that section 3 became effective. The Oklahoma Constitution contains a provision which states that "[n]o act shall take effect until ninety (90) days after the adjournment of the session at which it was passed . . . unless, in case of emergency, to be expressed in the act, the legislature . . . so directs"⁸⁰ The 1978 act contained no emergency clause,⁸¹ consequently the earliest time that section 3 could constitutionally have been effective was ninety days after the legislative session in which it was enacted.⁸² The pertinent legislative session ended on April 28, 1978.⁸³ Therefore, section 3 of the 1978 act became effective July 28, 1978.⁸⁴

Despite section 3 of the 1978 act being effective earlier than the rest of the 1978 Law, it did not deter the 1977 act from becoming the law as originally planned on July 1, 1978.⁸⁵ Only twenty-seven days later did section 3 of the 1978 act have the effect of amending the effective date provision of the 1977 Law. Thus from July 1, 1978, through July 27, 1978, the 1977 Law governed the perfection procedure in Oklahoma. On July 28, 1978, when the 1978 act's section 3 amended the effective date of the 1977 Law to June 30, 1979, the U.C.C. perfection procedure⁸⁶ became the controlling law in the absence of a certificate statute. On Saturday, June 30, 1979, the 1977 Law again became the controlling law until the next day, July 1, 1979, when the 1979 act superseded the perfection provisions of the 1977 and 1978 Laws.⁸⁷

80. OKLA. CONST. art. 5, § 58.

81. There are no reported Oklahoma cases which indicate that a court would supply an emergency clause if it found that the legislature may have neglected to supply one when it enacted the statute.

82. For an example of the method of calculating this ninety day period, *see generally* *Leatherock v. Lawter*, 45 Okla. 715, 147 P. 324 (1915); *Holcombe v. Lawyer's Co-operative Publishing Co.*, 35 Okla. 260, 143 P. 1046 (1912).

83. OKLA. STAT. at viii (Supp. 1978).

84. *See generally* OKLA. ATT'Y GEN. OP., *supra* note 51, at 4.

85. *See* note 48 *supra* and accompanying text.

86. *See* notes 29-34 *supra* and accompanying text.

87. 1979 Law, *supra* note 2, §§ 8, 10. Due to the Tax Commission's inability to properly implement the 1977 Law, most secured parties between July 1, 1978 and July 28, 1978, probably filed financing statements according to the U.C.C. filing provisions. Because the U.C.C. filing and perfection provisions were not legally effective during that period, these secured parties remained unperfected until July 28 at which time filing was again the correct method of perfection. *See* note 86 *supra* and accompanying text. While it is unlikely that more than one security interest was created in the same vehicle during this period, the potential for conflicting security interests existed. Consequently, the issue of priority between these conflicting interests must be addressed.

The lack of an effective method of perfecting a security interest is significant when a priority dispute arises between two secured parties who attempted to perfect under the U.C.C. during the twenty-seven day period in which the 1977 Law was effective. If the two secured parties filed financing statements, neither was properly perfected until July 28. Despite both parties becoming perfected at the same time, the secured party who filed first should be given priority under U.C.C.

C. *The Law After July 1, 1979*

The 1979 amendment to the Motor Vehicle Title Act,⁸⁸ which became effective July 1, 1979,⁸⁹ simplifies the perfection process for secured parties who hold security interests in vehicles. The key provision of this act requires the secured party to deliver certain forms and a fee to the Commission as the only prerequisites to perfection. Concomitantly, the 1979 Law minimizes the effectiveness of a U.C.C. filing by abolishing the necessity of filing a financing statement to perfect a se-

§ 9-312(5)(a). This section provides that between two conflicting security interests, both of which are perfected by filing, priority is to be given to the party who filed first regardless of which security interest attached first.

Arguably, Oklahoma courts may find § 9-312(5)(a) to be inapplicable in this situation. By reading the § 9-312(5)(a) language "are perfected by filing" to mean should have perfected by filing, subsection (5)(a) would be inapplicable. Secured parties should have perfected by notation. Subsection (5)(b) would then be the controlling priority provision. Subsection (5)(b) provides for priority in the order of perfection where both secured parties are not perfected by filing. Since both secured parties were eventually perfected on July 28, it could be argued that they should share pro rata in the collateral. U.C.C. § 9-315(2) is evidence of a Code policy to allow for pro rata sharing under appropriate circumstances. That section, however, deals solely with commingled or processed goods and provides for a pro rata ranking of security interests in the event of a priority dispute over the product or mass.

88. 1979 Law, *supra* note 2. In the 1979 Law, the legislature used the terms lien and security interest interchangeably. See note 23 *supra* for the Code's definition of security interest. For a security interest in a motor vehicle held by a dealer for sale or lease, perfection is still governed by the filing provisions of Article 9 of the U.C.C. rather than by the 1979 act. See 1979 Law, *supra* note 2, § 6(A)(1). See generally *In re Vaughan*, 283 F. Supp. 730, 734 (D. Tenn. 1968); *Guy Martin Buick, Inc. v. Colorado Springs Nat'l Bank*, 14 U.C.C. REP. SERV. 40, 47 (Colo. 1974); *Guardian Discount Co. v. Settles*, 114 Ga. App. 418, ___, 151 S.E.2d 530, 533 (1966); *Associates Discount Corp. v. Rattan Chevrolet, Inc.*, 462 S.W.2d 546, 549 (Tex. 1970). One court has held that a security interest in used or trade-in inventory vehicles must also be perfected by a Code filing even though a certificate may have been issued. *In re Vaughan*, 283 F. Supp. 730, 734 (D. Tenn. 1968).

A number of the 1979 Law's sections do not deal specifically with perfection. Section 6(B) of the act provides the method for releasing a satisfied security interest. Upon satisfaction of the debt, the secured party has the obligation to provide a written release to the debtor and to the Commission within fifteen business days. After the release, the owner may obtain a new certificate which omits reference to the security interest. This section appears to impose an affirmative duty on the secured party. Compare § 6(B) with U.C.C. § 9-404(1) (providing that only on written demand by the debtor must the secured party send the debtor a statement that he or she no longer claims a security interest). Unless a written demand is sent by the debtor to the secured party, the latter has no duty to file a release or termination statement under § 9-404. See, e.g., *Texas Kenworth Co. v. First Nat'l Bank*, 564 P.2d 222, 227 (Okla. 1977). To the extent that U.C.C. § 9-404 is inconsistent with the release provision of the 1979 Law, it has been repealed. 1979 Law, *supra* note 2, § 9.

Sections 6(D) and 6(E) of the 1979 Law acknowledge the continued validity of security interests properly perfected prior to July 1, 1979.

To insure priority in the event of the debtor's default, it is especially important that prospective secured parties check the county clerk's office, the certificate, and the Commission to establish if there is a perfected security interest in the vehicle. U.C.C. § 9-403(2) provides that a filed financing statement is effective for five years from the date of filing.

89. 1979 Law, *supra* note 2, § 6(a)(1).

curity interest in a vehicle.⁹⁰ Although the perfection provisions of the Code are replaced by the requirements of the certificate law, the Code provisions regulating the creation, validity, and attachment of vehicle security interests, the priority between conflicting security interests, and the debtor's default are not supplanted by the 1979 act.⁹¹

1. Alternative Interpretations of the 1979 Law

Statutory recognition of bypass to the U.C.C. perfection provisions when dealing with security interests in vehicles is found in U.C.C. § 9-302. While this section provides the Code's general rule of filing, subsection (3)(b) defers to any applicable certificate of title statute.⁹² The

90. U.C.C. § 9-302(3)(b), (4); OKLA. STAT. ANN. tit. 12A, § 9-302, U.C.C. comment 8 (West 1963). State courts have upheld this interaction of Article 9 of the U.C.C. with a certificate law similar to the 1979 act. *See Harper v. Avco Financial Servs., Inc.*, 124 Ga. App. 6, ___, 183 S.E.2d 89, 90 (1971); *Peterson v. Ziegler*, 39 Ill. App. 3d 379, ___, 350 N.E.2d 356, 360 (1976); *General Motors Acceptance Corp. v. Birkett L. Williams, Co.*, 243 N.E.2d 882, 887 (Ohio 1969); *Associates Discount Corp. v. Rattan Chevrolet, Inc.*, 462 S.W.2d 546, 549 (Tex. 1970); *Apeco Corp. v. Bishop Mobile Homes, Inc.*, 506 S.W.2d 711, 717 (Tex. Ct. App. 1974).

Clearly delivery, not filing, is the prerequisite to perfection under the 1979 Law. Nevertheless, for the purpose of giving notice to third parties, the secured party may file a financing statement. *See Opinion of the Attorney Gen.*, 3 U.C.C. REP. SERV. 924 (Kan. 1966), which states that when a financing statement covering a motor vehicle is presented to the filing officer, accompanied by the proper fee, it is the officer's duty to file it even though such filing is not effective for perfection. It is important to note, however, that a secured party who only files a financing statement under the 1979 Law will be subordinate to a subsequent secured party who delivers the required items to the Commission. *See Staley v. Phelan Finance Corp.*, 116 Ga. App. 1, ___, 156, S.E.2d 201, 202 (1967). *See also* note 13 *supra*.

91. *See Morris Plan Co. v. Moody*, 266 Cal. App. 2d 28, ___, 72 Cal. Rptr. 123, 125 (1968); *Peterson v. Ziegler*, 39 Ill. App. 3d 379, ___, 350 N.E.2d 356, 359 (1976); *In re Butler's Tire & Battery Co.*, 17 U.C.C. REP. SERV. 1363, 1366 (D. Ore. 1975); *In re Reese*, 1 U.C.C. REP. SERV. 450, 451 (E.D. Pa. 1960). Just as a financing statement cannot be substituted for a security agreement if it lacks language which creates a security interest, the certificate cannot be used as a security agreement if there is no evidence of the debtor's intent to create a security interest in the secured party. *In re Shelton*, 11 U.C.C. REP. SERV. 1239, 1241 (8th Cir. 1973); *In re E.F. Anderson & Son, Inc.*, 12 U.C.C. REP. SERV. 567, 571 (M.D. Ga. 1973); *First County Nat'l Bank & Trust Co. v. Canna*, 124 N.J. Super. 154, ___, 305 A.2d 442, 445 (App. Div. 1973). *But see* *Mertz Estate*, 24 Pa. D. & C.2d 755, ___, 1 U.C.C. REP. SERV. 452, 453 (1961), in which a notated certificate was found to suffice for a security agreement.

92. U.C.C. § 9-302(3)(b) provides that "[t]he filing provisions of this article do not apply to a security interest in property subject to . . . a statute of this state which provides for central filing of, or which requires indication on a certificate of title of, such security interests in such property." Subsection (3)(b) is not an explicit guide into the pertinent certificate statute. Compared with other states, Oklahoma is lagging behind in the modernization of Article 9. Most of the twenty-three states which have adopted the 1972 amendment to § 9-302 make explicit cross-reference to certificate statutes in their versions of § 9-302(3)(b). Those twenty-three states are Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Iowa, Kansas, Maine, Minnesota, Mississippi, Nevada, New York, North Carolina, North Dakota, Ohio, Oregon, Texas, Utah, Virginia, West Virginia, and Wisconsin. *Current Materials*, U.C.C. REP. SERV. (1978) (Introductory Note to Article 9).

provision of the 1979 certificate law which deals with perfection provides that

except for a security interest in motor vehicles held by a dealer for sale or lease . . . a security interest . . . in a vehicle shall be perfected only when a lien entry form . . . and the existing certificate of title, if any, or application for a certificate of title and manufacturer's certificate of origin containing the name and address of the secured party and the date of the security agreement and the required fee *are delivered* to the Oklahoma Tax Commission or one of its motor license agents.⁹³

This provision changes not only the place of filing but also the documents to be filed. In lieu of filing a financing statement with the county clerk as required under the Code, the secured party now delivers to the Commission or its agent a lien entry form, any existing certificate of title, or an application for such a certificate along with the manufacturer's certificate of origin⁹⁴ and the required fee.⁹⁵ Delivery of these documents is the only requirement in the single subsection dealing with perfection.⁹⁶ Thus under one interpretation of the 1979

93. 1979 Law, *supra* note 2, § 6(A)(1) (emphasis added). The 1979 Law's delivery method of perfection can be contrasted with the perfection provisions of the 1977 act. See 1977 Law, *supra* note 9, § 23.3(B), at 1040. Under the 1977 act, the secured party perfected a security interest in a vehicle by presenting certain items to the Commission and by having the Commission issue a certificate on which the security interest and the name and address of the secured party were noted. Actual notation of the security interest on the certificate by the Commission represented the time of perfection. The method of perfection under the 1977 Law consisted of delivery of certain items, notation of the security interest on the certificate, and issuance of the certificate. See *id.* Nearby states which make actual notation on the certificate the method of perfection include Colorado, Iowa, Kansas, Louisiana, Nebraska, and Texas. See Ward, *supra* note 7, at 258 n.21.

94. For examples of these documents see Appendix.

95. One technical requirement of the perfection process deserves mention. The statute requires that the date of the security agreement be supplied as part of the information about the security interest. Omission of the date leaves the security interest unperfected. This date, however, need not be noted on the certificate. Only the lien, the date of receipt of the lien entry form, and an assigned number must be recorded on the certificate. 1979 Law, *supra* note 2, § 6(A)(1), (3). Connecticut has a law similar to Oklahoma's new statute which has been interpreted in this manner. See *In re McGovern*, 6 U.C.C. REP. SERV. 234, 237 (D. Conn. 1969) (certificate law's requirement of security agreement's date on application cannot be read into Code to invalidate an undated security agreement); *In re Bassett*, 5 U.C.C. REP. SERV. 279, 283 (D. Conn. 1967) (total omission of date leaves security interest unperfected); *In re Benson*, 3 U.C.C. REP. SERV. 272, 274 (D. Conn. 1966) (substantial portion of date must appear on application). By requiring notation of this minimum amount of information, the certificate law is consistent with the Code's policy to only put subsequent parties on notice of prior claimants. See *In re Littlejohn*, 519 F.2d 356, 358 (10th Cir. 1975). See generally note 29 *supra*. See also U.C.C. § 9-203(1)(b) (date of execution not essential part of written security agreement).

96. The secured party's duties may not end upon delivery of the documents to the Commission. When a security interest is created in a vehicle which has previously been registered in the debtor's name and on which all the taxes due the state have been paid, the secured party has the

statute, delivery could be considered the sole prerequisite for perfection of a security interest in a vehicle.⁹⁷

An alternative interpretation exists, however, when the 1979 act is read in conjunction with the pertinent U.C.C. provisions. This approach requires, in addition to delivery, notation of the security interest on the certificate to achieve perfection.⁹⁸ The source of this argument is U.C.C. section 9-302(4). This section provides that a security interest in property covered by a certificate statute "can be perfected only . . . by *indication* of the security interest on a certificate of title . . ."⁹⁹ By reading the 1979 certificate law and the Code provision together, as suggested by section 9-302(4), perfection is completed only upon actual notation.¹⁰⁰ Thus, if the certificate is not noted with the security interest, the secured party is unperfected.

Because notice to subsequent parties underlies the perfection concept,¹⁰¹ the strongest policy argument in favor of making notation a part of the perfection process is that it provides better notice than merely a delivery prerequisite to perfection. Arguably, a reason for rejecting the U.C.C. filing procedure for security interests in vehicles is its inefficiency in providing notice to subsequent parties. Moreover, it is totally inadequate when a misfiling occurs.¹⁰² By requiring only delivery of certain items to achieve perfection, a delivery method of perfection appears to give no better notice than under the U.C.C. Conversely, by making notation of the security interest on the certificate an additional prerequisite to perfection, potential secured parties

added burden of personally obtaining a new certificate on which the security interest has been recorded. 1979 Law, *supra* note 2, § 6(A)(5). The secured party must then return the new certificate to the debtor. 1979 Law, *supra* note 2, § 6(A)(4). In contrast, for a vehicle never before registered in the debtor's name, the secured party need not personally obtain a certificate and convey it to the debtor. Presumably, only the Commission has the duty in that situation to send the certificate to the debtor. *See id.*

97. Delivery is not defined by the certificate statute. Nevertheless, its meaning can be determined by analogizing to U.C.C. § 9-403(1). To accomplish a Code filing, this section requires only that the financing statement and the filing fee be presented to the filing officer. Likewise, delivery under the certificate statute should be deemed complete when the forms and fee are placed in the possession of the Commission.

98. For an analogous result under a similar statutory scheme, see *Ferguson v. Morgan*, 14 N.C. App. 520, ___, 188 S.E.2d 672, 675 (1972). *But see* notes 105-11 *infra* and accompanying text.

99. U.C.C. § 9-302(4) (emphasis added).

100. Ward, *supra* note 7, at 260.

101. *See Mitchell v. Shepherd Mall State Bank*, 458 F.2d 700, 704 (10th Cir. 1972); *In re Fowler*, 407 F. Supp. 799, 802 (W.D. Okla. 1975); *National Trailer Convoy Co. v. Mount Vernon Nat'l Bank & Trust Co.*, 420 P.2d 889, 893 (Okla. 1966). *See generally*, J. WHITE & R. SUMMERS, *supra* note 21, § 23-5.

102. *See* notes 35-36 *supra* and accompanying text.

are immediately and efficiently informed of prior security interests without the need for further checking.¹⁰³ In addition, a misfiling of the pertinent documents does not prevent notice to subsequent parties if notation of the security interest on the certificate is properly made.¹⁰⁴

Despite the need for efficient notice of prior security interests to subsequent parties, actual notation of the security interest on the certificate should not be a prerequisite to perfection under the 1979 Law. Three arguments support this position. First, the language of the statute is explicit. It states that "a security interest . . . in a vehicle shall be perfected only when . . . [specific items] are delivered to the Oklahoma Tax Commission"¹⁰⁵ Additionally, the subsection of the 1979 statute which deals with notation does not mention perfection. It states that "[t]he Commission . . . shall have the duty to record the lien upon the face of the certificate of title issued at the time of registering and paying all fees and taxes due on such vehicle."¹⁰⁶ Thus, the statute does not expressly require notation as a step in the perfection process.

Second, the main function of U.C.C. § 9-302(4) is to allow for perfection under the procedures outlined in a certificate statute.¹⁰⁷ Consequently, the method of perfection should be controlled by the certificate statute and not by the Code.¹⁰⁸ This argument is especially cogent because the 1978 act is the most recent mandate of the legislature. Moreover, when the language of the 1979 Law was revised, the legislature could have specifically required, as in the 1977 Law, both delivery and notation as prerequisites to perfection.¹⁰⁹ Conversely, section 9-302(4) is part of the 1962 version of the Code which was enacted in Oklahoma in 1963. The legislature may not have intended a refer-

103. Under a notation method, visually checking a certificate of title is a simple and efficient way of ascertaining the existence of prior security interests in a vehicle. This method of providing notice is inadequate, however, when more than one certificate of title exists for a vehicle. If multiple certificates exist, there is the potential for a fraud known as the "Duplicate Title" racket. See generally Leary, *Horse and Buggy Lien Law and Migratory Automobiles*, 96 U. PA. L. REV. 455, 476 (1948). Both the 1977 and 1979 Laws contain a central filing provision which substantially eliminates this problem. See notes 123-25 *infra* and accompanying text.

104. A report of any processed lien entry form and a duplicate of any issued certificate of title are sent to the Commission following notation of the security interest on the certificate. 1979 Law, *supra* note 2, § 6(C).

105. *Id.* § 6(A)(1).

106. *Id.* § 6(A)(7).

107. Ward, *supra* note 7, at 261.

108. See 1 G. GILMORE, *supra* note 5, § 20.8, at 577.

109. As delivery, notation and issuance were the prerequisites to perfection under the 1977 act, 1977 Law, *supra* note 9, § 23.3(B), at 1040, obviously the legislature was aware of the possible perfection methods.

ence back to section 9-302(4) for additional perfection requirements.¹¹⁰

Third, by requiring only delivery to achieve perfection, the statute is consistent with the Code's "race of diligence" approach.¹¹¹ To a large degree, the secured party controls the delivery of the proper forms and fee to the Commission. Once the delivery requirement is satisfied, however, the secured party can personally do no more to assure notation of the security interest on the certificate. Requiring actual notation for perfection only promotes insecurity in view of the possibility of negligence by a Commission agent in noting the security interest on the certificate or the possibility of a time lag between delivery and notation.

Thus, under the better interpretation of the 1979 Law, delivery is the sole prerequisite to perfection. Not only does the statutory language expressly support this interpretation, but this approach also reflects the most recent legislative revision of the perfection procedure. In addition, a delivery method protects the diligent secured party who has done all that he or she can do to assure notation of the security interest on the certificate. While the notation required by the statute serves a critical notice function and while its importance should not be underestimated, it is not a prerequisite to perfection. Delivery of the specified items to the Commission is the sole requirement in the 1979 Law's perfection process.

2. Comparison of the 1977 and 1979 Laws

Delivery as the method of perfection under the 1979 Law eliminates the timing problem which existed under the 1977 Law's perfection procedure.¹¹² Under the latter method of perfection, delivery of certain items to the Commission, notation of the security interest on the certificate of title and issuance of the certificate to the debtor were prerequisites to perfection.¹¹³ Failing to note or improperly noting the security interest on the certificate of title, or failing to issue the noted

110. Reliance on a certificate law for the perfection procedure to the exclusion of the U.C.C. is suggested by a number of authorities. See *In re Manufacturers Credit Corp.*, 441 F.2d 1313, 1317 (3d Cir. 1971); *Maley v. National Acceptance Co.*, 250 F. Supp. 841, 844 (N.D. Ga. 1966); *In re Butler's Tire & Battery Co.*, 17 U.C.C. Rep. Serv. 1363, 1366 (D. Ore. 1975); *In re Smith*, 6 U.C.C. Rep. Serv. 860, 866 (W.D. Va. 1969); *Morris Plan Co. v. Moody*, 266 Cal. App. 2d 28, ___, 72 Cal Rptr. 123, 125 (1968); *Stanley v. Phelan Finance Corp.*, 116 Ga. App. 1, ___, 156 S.E.2d 201, 202 (1967). *Opinion of the Attorney Gen.*, 3 U.C.C. Rep. Serv. 104 (Neb. 1965); *Opinion of the Attorney Gen.*, 1 U.C.C. Rep. Serv. 742 (N.M. 1962).

111. OKLA. STAT. ANN. tit. 12A, § 9-312, U.C.C. comment 4 (West 1963). See note 21 *supra* for a discussion of the "race of diligence" approach of the Code.

112. 1977 Law, *supra* note 9, § 23.3, at 1039-40.

113. *Id.*

certificate to the debtor left the secured party unperfected.¹¹⁴ Although the 1979 Law provides for notation and issuance,¹¹⁵ those acts are not prerequisites to perfection.¹¹⁶ Therefore, if the agent fails to complete these acts, the secured party is nonetheless perfected.¹¹⁷ While this aspect of the delivery method of perfection tends to frustrate the notice function of perfection,¹¹⁸ the legislature under the 1979 Law, like the Code approach,¹¹⁹ has favored the secured party who has done all that he or she personally can to assure the perfection procedure is com-

114. The 1977 Law explicitly stated that notation was required for perfection. Unless the security interest was noted on the certificate, the secured party who had done all that he or she could do to achieve notation by delivering the proper items to the Commission was unperfected. Several courts construing state certificate laws similar to the 1977 act have required actual notation to achieve perfection. *See, e.g., In re Valley Contracting Co.*, 6 U.C.C. REP. SERV. 1127 (E.D. TENN. 1969); *In re White Plumbing & Heating Co.*, 6 U.C.C. REP. SERV. 467, 468 (E.D. Tenn. 1969); *In re McCroskey*, 19 U.C.C. REP. SERV. 1394, 1395 (W.D. Va. 1976); *Muir v. Jefferson Credit Corp.*, 108 N.J. Super. 586, ___, 262 A.2d 33, 35 (1970); *Ferguson v. Morgan*, 14 N.C. App. 520, ___, 188 S.E.2d 672, 675 (1972); *Harry Cramer, Inc. v. Morris*, 37 Pa. D. & C.2d 747, 3 U.C.C. REP. SERV. 337 (1965); *Commerce Union Bank v. Hunley*, 10 U.C.C. REP. SERV. 1252, 1257 (Tenn. Ct. App. 1972); *Phil Phillips Ford, Inc. v. St. Paul Fire & Marine Ins. Co.*, 465 S.W.2d 933, 937 (Tex. 1971). *See generally* Ward, *supra* note 7, at 258 n.21. This result is contrary to the Code's approach when a financing statement is improperly filed or indexed. The Code provides that a secured party becomes perfected despite an improper filing or indexing so long as his or her conduct did not cause the error by the filing officer. OKLA. STAT. ANN. tit. 12A, § 9-407, U.C.C. comment 1 (West 1963). *See In re Fowler*, 407 F. Supp. 799, 803 (W.D. Okla. 1975). Under the Code, once a secured party achieves perfection, subsequently perfected secured parties must bear the risk of loss. This result is consistent with the Code's "race of diligence" approach. *See* note 21 *supra*. *See also* *Mutual Bd. & Packaging Corp. v. Oneida Nat'l Bank & Trust Co.*, 342 F.2d 294, 297 (2d Cir. 1965), in which the court stated:

If one balances interests between a creditor who does his best to file and is prevented by the clerk from doing so, and another who does his best to search and is prevented by the clerk from finding what he is looking for, the loss may well be held to fall on the second creditor rather than the first because of the first creditor's priority of effort.

On the question of who should bear the loss in the absence of negligence by the secured party, an *Opinion of the Attorney Gen.*, 1 U.C.C. REP. SERV. 718, 728 (N.M. 1962), states that a county clerk may be personally responsible for damages to individuals incurred by reason of the clerk's negligent failure to perform his or her Code duties. Professor Welsh suggests that this approach would probably be followed by most courts where the certificate statute makes delivery the prerequisite to perfection and a subsequent secured party relies on a certificate which fails to note a security interest due to an official's negligence. Welsh, *supra* note 7, at 291 n.108. Generally, the public official charged with the issuance of certificates is required to post a bond to guarantee the faithful performance of his or her duties and to indemnify the injured party. *Id.* at 291 n.109. In Oklahoma, the public official charged with issuance of the certificate is the Commission agent. OKLA. STAT. tit. 47, § 22.22(A) (Supp. 1978) provides that such an agent shall furnish a bond in an amount fixed by the Commission.

115. 1979 Law, *supra* note 2, § 6(A)(7).

116. *See* notes 105-11 *supra* and accompanying text.

117. Welsh, *supra* note 7, at 291. *Cf. Opinion of the Attorney Gen.*, 10 U.C.C. REP. SERV. 734 (Ky. 1972) (when county clerk negligently fails to note security interest on the certificate, but security interest was properly perfected by filing, the perfected status of the security interest continues against transferees from the debtor who have no actual notice).

118. *See* note 101 *supra* and accompanying text.

119. *See* U.C.C. § 9-403(1); OKLA. STAT. ANN. tit. 12A, § 9-403, Oklahoma Code comment 1 (West 1963); OKLA. STAT. ANN. tit. 12A, § 9-407, U.C.C. comment 1 (West 1963).

pleted.¹²⁰

Although the 1979 Law makes delivery the method of perfection, the time of perfection is not necessarily the date of the actual delivery of the necessary items to the Commission. If the proper items are delivered within ten days after the date of execution of the lien entry form, perfection relates back to the date of execution. If, however, delivery of the items is made more than ten days after the date of execution of the form, perfection begins on the date of delivery.¹²¹ In contrast, the 1977 Law made actual notation of the security interest on the certificate of title the time of perfection.¹²²

A provision common to both the 1977 and 1979 Laws requires the Commission to file and index duplicates of all issued certificates.¹²³ Under both laws the Commission also receives information of all processed lien entry forms. The names and addresses of prior secured parties are then readily available to those who make legitimate inquiries to the Commission.¹²⁴ While this central filing is not a prerequisite to perfection, it is an additional source of information about security interests which should help prevent fraudulent debtor practices.¹²⁵

Thus, in contrast to the 1977 Law, the legislature under the 1979 Law has favored the secured party who has taken all the necessary steps to procure notation and issuance of the certificate. Such a secured

120. See notes 105-11 *supra* and accompanying text.

121. 1979 Law, *supra* note 2, § 6(A)(2).

122. 1977 Law, *supra* note 9, § 23.3(B) at 1040.

123. 1977 Law, *supra* note 9, § 23.3(D) at 1040; 1979 Law, *supra* note 2, § 6(C).

124. Names and addresses of assignees must also be available to those who make inquiries to the Commission. 1979 Law, *supra* note 2, § 6(C). A perfected security interest in a vehicle continues to be perfected in an assignee without a notation of the assignment on the certificate. U.C.C. § 9-302(2). See *In re Chapin*, 6 U.C.C. REP. SERV. 984, 990 (W.D. Mich. 1969). For a brief discussion of the advantages and disadvantages of central filing, see generally OKLA. STAT. ANN. tit. 12A, § 9-401, U.C.C. comment 1 (West 1963); J. WHITE & R. SUMMERS, *supra* note 21, § 23-11, at 818.

125. One of these fraudulent debtor practices is known as the "Duplicate Title" racket. See Leary, *Horse and Buggy Lien Law and Migratory Automobiles*, 96 U. PA. L. REV. 455, 476 (1948). If the car owner holds an original certificate which is free of any security interests, liens, or encumbrances, he or she could apply for a duplicate certificate of title by fraudulently claiming destruction of the original. After issuance of the duplicate, the car owner applies for a loan and gives a security interest in the vehicle. The duplicate, which lacks any notation, is surrendered to the secured party for notation of the interest. Subsequently, the car owner borrows elsewhere on the strength of the same vehicle. For the second creditor, the owner produces the original certificate which appears free of all interests. The second secured party has been duped into giving value based upon the belief that he or she would have priority over other secured parties once the certificate is noted. The first secured party, however, achieved notation first and therefore has priority. See U.C.C. § 9-312(5)(b). Under both the 1977 and 1979 Laws, the Commission would have had a record of the security interest noted on the duplicate. For a variation on the "Duplicate Title" racket, see *Muir v. Jefferson Credit Corp.*, 108 N.J. Super. 586, 262 A.2d 33 (1970).

party is perfected under the 1979 Law despite the Commission's failure either to note or to issue the certificate. Moreover, the time of perfection under the 1979 Law is not the time the security interest is noted on the certificate; rather, it is the date of execution of the lien entry form or the date of the form's delivery to the Commission. Finally, under both the 1977 and 1979 Laws, central filing and indexing of all issued certificates is mandated. This central filing provision should help prevent fraudulent creation of multiple security interests in the same vehicle.

III. CONCLUSION

In thirteen months, secured parties in Oklahoma have been subjected to four different laws relating to perfection of security interests in vehicles. This places a heavy burden on those who seek information concerning prior security interests in a vehicle. In the coming years, secured parties must check in three places to properly determine the existence of any prior security interests in the vehicle. First, the secured party should check with the county clerk in the county of the debtor's residence for a financing statement filed prior to July 1, 1979. Second, any existing certificate of title should be inspected for security interests noted after July 1, 1979. Third, the secured party should contact the Commission to establish if any applications which contain security interests in the vehicle have been delivered to the Commission and if the Commission has a duplicate certificate on file which is noted with an existing security interest.

Despite taking these precautions, a secured party may still lose priority to a prior secured party who perfected under the 1979 Law. If that prior secured party can prove that the proper forms and fee were delivered to the Commission, even though the Commission is without record of such a delivery, the prior secured party will be perfected. Consequently, he or she will take priority over a diligent but subsequent secured party who is without notice of the interest.

By eliminating the requirement of filing a financing statement, by requiring notation of the security interest on the certificate and by making delivery the sole prerequisite to perfection, the legislature has brought Oklahoma law more in line with modern commercial needs. Although the procedure which a secured party must follow to achieve perfection after July 1, 1979, will be similar to the filing of a financing statement, there will eventually be a vast improvement in the notice aspect of perfection. If the Commission agent properly fulfills the stat-

utory requirements, subsequent parties will only need to glance at the certificate of title to establish the status of the vehicle as collateral. The new procedure promotes security for secured parties, reduces the risk of fraudulent practices by debtors, and centralizes the pertinent records concerning security interests perfected in Oklahoma vehicles.

Judi Ruffing

APPENDIX A

**IMPORTER'S AND MANUFACTURER'S
STATEMENT OF ORIGIN
TO A MOTOR VEHICLE**

The undersigned CORPORATION hereby certifies that the new motor vehicle described below, the property of said CORPORATION has been transferred

THIS	DAY OF	19	ON INVOICE NO.
TO			
STREET			
CITY			
STATE	ZIP		
MAKE	19	YEAR	MODEL
			HP (SAE)
BODY TYPE	ENGINE NO.	NO. OF CYL.	
SERIAL NO.	SHIPPING WEIGHT (DRY CHASSIS WEIGHT)		COMMERCIAL CAPACITY (GVW)

The CORPORATION further certifies that this was the first transfer of such new motor vehicle in ordinary trade and commerce.

BY:

FIRST ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby transfers this Statement of Origin and the motor vehicle described therein to _____

Address _____
and certifies that the vehicle is new and has not been registered in this or any other state; he also warrants the title of said motor vehicle at time of delivery, subject to liens and encumbrances, if any, as set out below:

<u>Amt. of Lien</u>	<u>Date</u>	<u>To Whom Due</u>	<u>Address</u>
_____	_____	_____	_____
_____	_____	_____	_____

Dated _____, 19_____, at _____
By: _____

<u>Transferor (Firm Name)</u>	<u>Sign Here</u>	<u>Position</u>
_____	_____	_____

Dealer's License No. _____
Before me personally appeared _____ who by me being
duly sworn upon oath says that the statements set forth above are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19_____
_____, Notary Public for _____ County, State of _____
Notary Seal

SECOND ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby transfers this Statement of Origin and the motor vehicle described therein to _____

Address _____
and certifies that the vehicle is new and has not been registered in this or any other state; he also warrants the title of said motor vehicle at time of delivery, subject to liens and encumbrances, if any, as set out below:

<u>Amt. of Lien</u>	<u>Date</u>	<u>To Whom Due</u>	<u>Address</u>
_____	_____	_____	_____
_____	_____	_____	_____

Dated _____, 19_____, at _____
By: _____

<u>Transferor (Firm Name)</u>	<u>Sign Here</u>	<u>Position</u>
_____	_____	_____

Dealer's License No. _____
Before me personally appeared _____ who by me being
duly sworn upon oath says that the statements set forth above are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19_____
_____, Notary Public for _____ County, State of _____
Notary Seal

THIRD ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby transfers this Statement of Origin and the motor vehicle described therein to _____

Address _____
and certifies that the vehicle is new and has not been registered in this or any other state; he also warrants the title of said motor vehicle at time of delivery, subject to liens and encumbrances, if any, as set out below:

<u>Amt. of Lien</u>	<u>Date</u>	<u>To Whom Due</u>	<u>Address</u>
_____	_____	_____	_____
_____	_____	_____	_____

Dated _____, 19_____, at _____
By: _____

<u>Transferor (Firm Name)</u>	<u>Sign Here</u>	<u>Position</u>
_____	_____	_____

Dealer's License No. _____
Before me personally appeared _____ who by me being
duly sworn upon oath says that the statements set forth above are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19_____
_____, Notary Public for _____ County, State of _____
Notary Seal

APPENDIX B

701-6-R77

APPLICATION FOR OKLAHOMA CERTIFICATE
OF TITLE FOR A VEHICLE
CERTIFICATE OF TITLE FEE \$1.75PLACE
MOTOR VEHICLE
TAX STAMP
HERE

MODEL YEAR AND MAKE _____	
BODY TYPE _____	
IDENTIFICATION NUMBER _____	
YEAR MADE _____	TITLE NUMBER _____
EXCISE TAX RECEIPT _____	LICENSE TAG _____
FACT. DEL. PRICE (LICENSE) \$ _____	
TOTAL DEL. PRICE (EXCISE) \$ _____	
MODEL NUMBER _____	
DATE FIRST SOLD BY DEALER _____	
NAME _____	
STREET _____	CITY _____
COUNTY _____	STATE _____ ZIP _____
THIS MOTOR VEHICLE IS SUBJECT TO A LIEN IN FAVOR OF: _____	
CITY _____ STATE _____	
AMOUNT OF LIEN \$ _____	DATE OF LIEN _____
PREVIOUS OWNER OR SELLING DEALER _____	
STREET _____	CITY _____ STATE _____
MOTOR LICENSE AGENT _____	

STATE OF OKLAHOMA

COUNTY OF _____

} ss.

I, the undersigned, do solemnly swear (or affirm) that I am the owner, or legal agent of the owner of the above described vehicle and that the statements contained herein are true.

Owner or Legal Agent of Owner

SIGN IN INK

Subscribed and sworn to before me this _____ day of _____, 19 ____.

My Commission Expires_____
Notary Public

I the undersigned, hereby certify I have checked the motor and serial numbers of the above described vehicle and find they conform to the numbers shown in this application.

By: _____

Sign Here_____
Title or Position_____
(City)_____
(State)_____
(Date)

The above MUST be executed by a sheriff, deputy sheriff, police officer, representative of Oklahoma Tax Commission or other law enforcement officers.

The following extra or optional equipment and accessories were physically attached to the vehicle described on the front of this form at the time of sale and were sold as a part thereof. (Fully describe equipment or accessories and include related parts on items listed below.)

Equipment and Accessories	Suggested Retail Selling Price
FACTORY DELIVERED PRICE OF BASIC VEHICLE\$ _____
Air Conditioner.\$ _____
Axle - Special\$ _____
Engine.\$ _____
Glass, tinted\$ _____
Paint.\$ _____
POWER: Brakes\$ _____
Seats.\$ _____
Steering.\$ _____
Windows\$ _____
Radio\$ _____
Transmission\$ _____
Tires\$ _____
MISC.\$ _____
.\$ _____
.\$ _____
.\$ _____
.\$ _____
.\$ _____
.\$ _____
.\$ _____
TOTAL DELIVERED PRICE\$ _____

I, (we) the undersigned, under the penalties of perjury, do declare the above to be a true statement of facts.

Firm Name or Individual

By _____

19 _____ Dealer's Lic. No. _____ City _____

OUT-OF-STATE TITLE INFORMATION

Issued to _____ Date _____

Address _____ City _____ State _____ Zip _____

Title No. & State _____

License No. & Year _____

Remarks: _____

1979]

SECURITY INTEREST IN OKLAHOMA VEHICLES

797

APPENDIX C

INSTRUCTIONS			
SECURED PARTY: <input type="checkbox"/> Type in Lien Entry Form for Initial Use. <input type="checkbox"/> Verify the accuracy of information on the Lien Entry Form with the Manufacturer's Statement of Original Vehicle or the Certificate of Title (on previously owned vehicles). <input type="checkbox"/> Detach and keep Copy 6. <input type="checkbox"/> Submit Copy 5 to the Oklahoma Tax Commission. <input type="checkbox"/> Return Copies 1, 3 and 4 together with the appropriate title documents, to the Secured Party.			
MOTOR LICENSE AGENT: <input type="checkbox"/> Process all Copies (1 thru 5). <input type="checkbox"/> Detach Copy 5 for M.L.A.'s. <input type="checkbox"/> Send Copy 2 to Oklahoma Tax Commission.			
DEBTOR NAMES & ADDRESSES (Last Name First)		SECURED PARTY NAME & ADDRESS	
THIS LIEN ENTRY FORM COVERS THE FOLLOWING VEHICLE DATE OF SECURITY AGREEMENT ORIGINAL OKLAHOMA TITLE NO.		MOTOR LICENSE AGENT USE ONLY DATE LEFT RECEIVED TIME RECEIVED AM PM RECEIPT NUMBER MOTOR LICENSE AGENT (Identification's Initials)	
MODEL YEAR	MAKE & MODEL	BODY TYPE	
FOR SECURED PARTY USE - WHEN LIEN RELEASED ONLY DATE LIEN RELEASED AUTHORIZED BY <input type="checkbox"/> RELEASE MAILED TO OKLAHOMA TAX COM. (Date) BY <input type="checkbox"/> FIRST CLASS MAIL <input type="checkbox"/> CERTIFIED MAIL <input type="checkbox"/> RELEASE MAILED/DELIVERED TO DEBTOR OR ENCLOSURES <input type="checkbox"/> PAID NOTE BY <input type="checkbox"/> FIRST CLASS MAIL <input type="checkbox"/> CERTIFIED MAIL I have completed the above tasks (sign)			
ENCLOSURES		SECURED PARTY / ASSIGNEE SIGNATURES	
CERTIFICATE OF TITLE APPLICATION FOR TITLE MANUFACTURER'S STATEMENT OF ORIGIN (M.S.O.) FEE		DATE EXECUTED	
LIEN ENTRY FORM - MOTOR VEHICLE - OKLAHOMA BY			

Form Approved By Oklahoma Tax Commission 7719

COPY 1: SECURED PARTY MASTER FILE - M.L.A. PROCESSES & RETURNS TO SECURED PARTY